

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

68-0157 (9-06) - 3091078 - EI

LUIS O MORAN
Claimant

APPEAL NO. 13A-UI-13309-HT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**LA LEASING INC
SEDONA STAFFING**
Employer

**OC: 11/03/13
Claimant: Appellant (2)**

Section 96.5(1) – Quit

STATEMENT OF THE CASE:

The claimant, Luis Moran, filed an appeal from a decision dated November 27, 2013, reference 01. The decision disqualified him from receiving unemployment benefits. After due notice was issued, a hearing was held by telephone conference call on December 20, 2013. The claimant participated on his own behalf. The employer, Sedona, participated by Unemployment Benefits Administrator Colleen McGuinty and Account Coordinator Megan Francis.

ISSUE:

The issue is whether the claimant quit work with good cause attributable to the employer.

FINDINGS OF FACT:

Luis Moran was employed by Sedona from June 10, 2013 until July 17, 2013. He was technically hired by the client company, Plastic Products Company (PPC) but all new employees are paid through the temporary agency for the first 90 days.

The claimant had serious concerns about safety procedures at PPC. It did not require lock-out/tag-out procedures. One of Mr. Moran's job duties was to do mold changes and because there was no lock out tag out procedure, someone started a machine while he was inside changing the mold.

On July 12, 2013, he was to the Coralville office of Sedona and reported the incident to an account manager. That person told him she would call him back after she looked into the matter. On Tuesday, July 16, 2013, the claimant called the PPC human resources manager, Jane, and reported the incident to her. She also said she would look into it.

The claimant did not return to work because no one at Sedona or PPC ever contacted him about the results of the investigation or assured him the safety procedures would be put in place.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 96.5-1 provides:

An individual shall be disqualified for benefits:

1. Voluntary quitting. If the individual has left work voluntarily without good cause attributable to the individual's employer, if so found by the department.

871 IAC 24.26(2) provides:

Voluntary quit with good cause attributable to the employer and separations not considered to be voluntary quits. The following are reasons for a claimant leaving employment with good cause attributable to the employer:

(2) The claimant left due to unsafe working conditions.

The claimant had legitimate concerns about his safety given the lack of proper lock-out/tag-out procedures at PPC. He did make his concerns known to both Sedona and PPC but nothing was done. In order for good cause attributable to the employer to exist, a claimant must make some effort to give the employer an opportunity to work out whatever problem led to the grievance. *Denby v. Board of Review*, 567 P.2d 626 (Utah 1977). Mr. Moran did make the effort and the administrative law judge considers his resignation was with good cause attributable to the employer as nothing was done to address the concern. Benefits are allowed.

DECISION:

The unemployment insurance decision dated November 27, 2013, reference 01, is reversed. Luis Moran is qualified for benefits, provided he is otherwise eligible.

Bonny G. Hendricksmeier
Administrative Law Judge

Decision Dated and Mailed

bgh/css